

PT/DW

21st May 2013

Mr Daithi McKay MLA
 Chair DFP Committee
 Department of Finance and Personnel
 Northern Ireland Executive
 Craigantlet Buildings
 Stoney Road
 Belfast
 BT4 3SX

Dear Mr McKay,

Further to my letter of 7th May, I am just following up with a number of additional points in response to specific issues subsequently raised in the *Belfast Telegraph* and the *Sunday Times* in the intervening period, namely:

- i) References to Belfast becoming a centre for *libel tourism* are totally misconceived. Indeed, the “myth” on libel tourism was addressed in a report conducted by Sweet & Maxwell several years ago. See link to article entitled “*Libel tourism is a very rare thing in UK Courts, finds study*” www.out-law.com
- ii) The Speech Act was introduced as a result of intense lobbying from the US Publishers’ Associations and Dr Rachel Ehrenfeld, who failed to even attend the High Court in London for the hearing of the libel action against her. Instead, she unsuccessfully attempted to persuade the New York State and Federal Courts to support her. A Senate Judiciary Committee, chaired by Senator Cohen, set up prior to the introduction of the Speech Act, refused to hear evidence from myself or any US attorney colleagues who were in support of my stance and, significantly, none of the “witnesses” selected to give evidence, were able to cite one example of an attempt to enforce a UK libel judgment in the United States;
- iii) The problem is that it has always been extremely difficult for a member of the public to take defamation proceedings in the NI Courts for the financial and other reasons I have outlined in my earlier letter. That position will not change in the event that the English Defamation Act is introduced here, although such legislation would make it even more difficult to bring a legal action;
- iv) While I would have no particular difficulty in affording additional protection to scientists, medical researchers and academics, I should say that I am unaware of any such claims being threatened never mind coming before the Courts in Northern Ireland; and

Johnsons Law Firm**Belfast Office :**

Johnson House
 50/56 Wellington Place
 Belfast BT1 6GF
 DX 405 Belfast 1

T +44 (0) 28 9024 0183

F +44 (0) 28 9031 3300

Dublin Office :

4 Harbourmaster Place
 IFSC
 Dublin 1
 Ireland
 DX 112018 Talbot Street, Dublin

T +353 (1) 612 6966

F +353 (1) 670 0183

London Office :

21 Arlington Street
 London
 SW1A 1RN

T +44 (0) 20 7409 7404

F +44 (0) 20 7629 1225

Partners

Paul Tweed LLP *
 Ken Chambers
 David Craig
 David Holley
 John McMahon
 Carl Rooney
 George Strahan
 Sarah Loughran

Consultant

Michael McKee

Solicitors

Alison McClung
 Gareth Luddy
 James Ead
 John Kerr
 Kathy Mathews
 Brian Connolly
 Alex Trimble
 Rhys Jones
 Deaglan Lundy
 Mark Kernaghan
 Laura Cunningham
 Sarah Watson
 Jonathan Calvert

* Paul Tweed a member of Paul Tweed LLP
 is also registered as a Foreign Legal
 Consultant by the State Bar of California

- v) The press have also been suggesting that IT companies may be discouraged from locating to Northern Ireland as a result of our current defamation laws. This certainly has not been the experience in ROI, where companies such as Facebook, Google, Microsoft, Twitter and Yahoo have not been deterred by libel laws similar to our own in that jurisdiction. Indeed, the Irish defamation and privacy laws have encouraged these companies to improve their own internal regulatory measures, which will hopefully reduce the rampant cases of online abuse and harassment that are proving extremely difficult to control and have resulted in several high profile suicides.

I firmly believe that the facts speak for themselves and I sincerely hope that our politicians will not be intimidated by the press like their colleagues in England.

Paul Tweed
Senior Partner
JOHNSONS



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Libel tourism is a very rare thing in UK courts, finds study

Just three out of 83 defamation cases reported in the UK in the past year involved libel tourism, according to a study. Concern about foreign residents suing foreign publishers in UK courts greatly outweighs its actual occurrence, the figures suggest. 02 Sep 2010

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Legal publisher Sweet & Maxwell, a division of publishing giant Thomson Reuters, published the results of its study yesterday. Its findings contradict the widely-held view that the UK courts act as a magnet for overseas residents wishing to sue overseas publishers that may have minimal interests in the UK.

"The low number of libel tourism cases identified raises the question as to how widespread libel tourism now is," said Sweet & Maxwell in a statement.

Libel laws in the UK have been criticised for being overly protective of individuals' or companies' reputations. By contrast, in the US there are strong protections for free speech and public interest, making libel actions in that country's courts comparatively rare.

Those who feel their reputations have been damaged may seek the most sympathetic courts in which to take their actions, a practice also known as forum shopping. Arguing that online publication brings an article within UK jurisdiction, some have taken their actions in the courts in England and Wales.

Critics point to examples of libel tourism like Don King's. [English courts were used](#) when the boxing promoter, an American living in America, sued another American living in America over comments that appeared on an American website.

The US has since passed a federal law to prevent libel judgments from UK courts being enforced in the US. The UK Government has also pledged to reform libel laws to restrict

forum shopping. But Sweet & Maxwell's research suggests that the concern outweighs the practice.

The research also found that the total number of reported defamation cases in 2009-2010 had risen by 6% from 78 in 2008-2009. This was led by an increase in claims from celebrities and sports stars, it said, which nearly trebled in that period, from 11 to 30.

According to Sweet & Maxwell, that rise may be the result of a closer working relationship between agents and managers of celebrities and law firms that specialise in bringing defamation claims against the media.

"The more widespread use of digital media monitoring services of print and online media by the managers of celebrities give a more reliable record of when the media might have published damaging material," said Sweet & Maxwell. "The media has also complained that the use of 'no win no fee' agreements encourages defamation claims against the media that would not normally have been launched."

More from Out-Law.com

- [US law to protect writers against libel tourism](#) 30 Jul 2010
- [Government outlines new libel law plans](#) 12 Jul 2010
- [Libel Bill gives ISPs definite 14 day window to act](#) 03 Jun 2010

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